

ROUTINE

UNCLASSIFIED

PAGE 01 OF 02

USER: SCJS

TOR: 152044Z JAN

RTAUZYUW RUEADWD0305 0151942-UUUU--RUCRARM
ZNR UUUUU ZYW ZOC ZEO T ALL US ARMY REPS AND ACTIVITIES
R 151100Z JAN 98
FM DA WASHINGTON DC//DAPE-MPE//
TO ALARACT
BT

UNCLAS ALARACT 009/98

SUBJECT: HQDA MESSAGE ON INTERIM IMPLEMENTATION OF LAUTENBERG
AMENDMENT

1. THIS MESSAGE PROVIDES HQDA INTERIM POLICY GUIDANCE FOR IMPLEMENTING THE LAUTENBERG TO THE GM CONTROL ACT OF 1968.
2. THE LAUTENBERG AMENDMENT BECAME LAW 30 SEPTEMBER 1996. THIS AMENDMENT MAKES IT A CRIME FOR ANY PERSON WHO HAS BEEN CONVICTED OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE TO SHIP, TRANSPORT, POSSESS OR RECEIVE FIREARMS OR AMMUNITION. CONVICTION OF A MISDEMEANOR OR CRIME OF DOMESTIC VIOLENCE DOES NOT INCLUDE A SUMMARY COURT-MARTIAL CONVICTION OR IMPOSITION OF NONJUDICIAL PUNISHMENT (ARTICLE 15, UCMJ), OR DEFERRED PROSECUTIONS (OR SIMILAR ALTERNATIVE DISPOSITIONS) IN A CIVILIAN COURT. TRANSFER OR SALE OF FIREARMS TO A PERSON WITH SUCH A CONVICTION IS ALSO A FELONY UNDER THE LAW.
3. THE FOLLOWING POLICY APPLIES TO ALL SOLDIERS THROUGHOUT THE WORLD INCLUDING HOSTILE FIRE AREAS AND APPLIES TO ALL ARMY ISSUE AND PRIVATELY OWNED FIREARMS AND AMMUNITION. IT DOES NOT APPLY TO MAJOR WEAPONS SYSTEMS OR CREW SERVED WEAPONS (TOWS, MISSILES, AIRCRAFT, ETC.). GUIDANCE FOR CIVILIAN EMPLOYEES WILL BE ISSUED SEPARATELY.
4. COMMANDERS MUST IMP THE PROVISIONS IN THIS MESSAGE IMMEDIATELY. COMMANDERS WILL NOTIFY ALL SOLDIERS THAT IT IS UNLAWFUL TO POSSESS FIREARMS AND AMMUNITION IF THEY HAVE A CONVICTION OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE. COMMANDERS WILL CONDUCT LOCAL UNIT FILES CHECKS AND WILL REPORT THRU COMMAND CHANNELS TO HQDA (DAPE-MPE) SOLDIERS KNOWN TO HAVE QUALIFYING CONVICTIONS AND SOLDIERS REASONABLY BELIEVE TO HAVE SUCH CONVICTIONS. UPON RECEIPT OF THIS MESSAGE, MACOMS WILL NOTIFY HQDA (DAPE-MPE, MAJ DILLARD AT DSN 227-2403 (EMAIL DILLANL@HQDA.ARMY.MIL)) OF THEIR POC. HQDA WILL SEND REPORTING FORMAT AND MATRICES VIA EMAIL TO EACH MACOM POC FOR COMPILING

DATA FOR FORWARDING TO HQDA. EACH MACOM WILL FORWARD INITIAL DOMESTIC VIOLENCE CONVICTION INFORMATION ON ACTIVE DUTY SOLDIERS TO THIS HEADQUARTERS NO LATER THAN 27 FEBRUARY 1998. SOLDIERS WHO HAVE OR MAY HAVE A QUALIFYING CONVICTION SHOULD BE REFERRED TO A LEGAL ASSISTANCE ATTORNEY. FURTHER IMPLEMENTATION GUIDANCE WILL FOLLOW IN SUBSEQUENT MESSAGES.

5. COMMANDERS WILL DETAIL SOLDIERS WHO HAVE REASON TO BELIEVE HAVE A CONVICTION FOR A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE TO DUTIES THAT DO NOT REQUIRE THE BEARING OF WEAPONS OR AMMUNITION. COMMANDERS MAY REASSIGN SOLDIERS TO LOCAL TDA UNITS WHERE APPROPRIATE. NO ADVERSE ACTION MAY BE TAKEN AGAINST SOLDIERS SOLELY

UNCLASSIFIED

ROUTINE UNCLASSIFIED

PAGE 02 OF 03

USER: SCJS

TOR: 152044Z JAN 90

ON THE BASIS OF AN INABILITY TO POSSESS A FIREARM OR AMMUNITION DUE TO CONVICTION OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE IF THE ACT OF DOMESTIC VIOLENCE THAT LED TO THE CONVICTION OCCURRED ON OR BEFORE 30 SEPTEMBER 1996. COMMANDERS MAY INITIATE ADVERSE ACTION, INCLUDING BARS TO REENLISTMENT OR PROCESSING FOR ELIMINATION UNDER APPLICABLE REGULATIONS, AGAINST SOLDIERS BECAUSE OF AN INABILITY TO POSSESS A FIREARM OR AMMUNITION DUE TO CONVICTION OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE IF THE ACT OF DOMESTIC VIOLENCE THAT LED TO THE CONVICTION OCCURRED AFTER 30 SEPTEMBER 1996, AND AFTER PROVIDING SUCH SOLDIERS A REASONABLE TIME TO SEEK EXPUNCTION OF THE CONVICTION OR PARDON. THIS POLICY CONCERNING ADVERSE ACTION IS NOT MEANT TO RESTRICT A COMMANDER'S AUTHORITY TO INITIATE SEPARATION OF A SOLDIER BASED ON THE CONDUCT THAT LED TO THE QUALIFYING CONVICTION, OR FOR CIVIL CONVICTION UNDER AR 635-200, PARAGRAPH 14-5, REGARDLESS OF THE MISCONDUCT OR CONVICTION OCCURRED. LEGAL ASSISTANCE ATTORNEYS MAY ASSIST SOLDIERS IN SEEKING EXPUNCTION OR PARDON OF CONVICTIONS. A PERSON HAS A CONVICTION OF A "MISDEMEANOR CRIME OF DOMESTIC VIOLENCE" IF: THE PERSON WAS CONVICTED OF A MISDEMEANOR CRIME, AND; THE OFFENSE HAD AS AN ELEMENT THE USE OR ATTEMPTED USE OF PHYSICAL FORCE, OR THREATENED USE OF A DEADLY WEAPON, AND; THE CONVICTED OFFENDER WAS AT THE TIME OF THE OFFENSE: A CURRENT OR FORMER SPOUSE, PARENT, OR GUARDIAN OF THE VICTIM OR; A PERSON WITH WHOM THE VICTIM SHARED A CHILD IN COMMON, OR; A PERSON WHO WAS COHABITATING WITH OR HAS COHABITATED WITH THE VICTIM AS A SPOUSE, PARENT OR GUARDIAN, OR; A

PERSON WHO WAS SIMILARLY SITUATED TO A SPOUSE, PARENT, OR GUARDIAN OF THE VICTIM, AND; THE CONVICTED OFFENDER WAS REPRESENTED BY COUNSEL, OR KNOWINGLY AND INTELLIGENTLY WAIVED THE RIGHT TO COUNSEL, AND; IF ENTITLED TO HAVE THE CASE TRIED BY A JURY, THE CASE WAS ACTUALLY TRIED BY A JURY OR THE PERSON KNOWINGLY AND INTELLIGENTLY WAIVED THE RIGHT TO HAVE THE CASE TRIED BY A JURY, AND; THE CONVICTION HAS NOT BEEN EXPUNGED OR SET ASIDE, OR THE CONVICTED OFFENDER HAS NOT BEEN PARDONED FOR THE OFFENSE OR HAD CIVIL RIGHTS RESTORED, UNLESS THE PARDON, EXPUNCTION, OR RESTORATION OF CIVIL RIGHTS PROVIDES THAT THE PERSON MAY NOT SHIP, TRANSPORT, POSSESS OR RECEIVE FIREARMS.

7. COMMANDERS MUST ESTABLISH PROCEDURES TO ENSURE COMPLIANCE WITH THE LAW TO INCLUDE WITHDRAWING PRIVATELY OWNED WEAPONS FROM ARMS ROOMS. THESE PROCEDURES SHOULD PERMIT, HOWEVER, FOR SUCH SOLDIERS TO SELL OR TRANSFER THEIR PERSONAL FIREARMS TO AUTHORIZED INDIVIDUALS. COMMANDERS SHOULD ADVISE SOLDIERS WISHING TO SELL OR TRANSFER FIREARMS STORED IN ARMS ROOMS TO SEEK ASSISTANCE FROM A LEGAL ASSISTANCE ATTORNEY AT THE LOCAL OFFICE OF THE STAFF JUDGE ADVOCATE. LEGAL ASSISTANCE ATTORNEY CAN ASSIST SOLDIERS IN PREPARING BILLS OF SALE AND POWERS OF ATTORNEY.

8. NO ACTION OTHER THAN WHAT IS SPECIFIED IN THIS MESSAGE IS REQUIRED TO BE TAKEN PENDING ISSUANCE OF FURTHER HQDA GUIDANCE.

9. POINT OF CONTACT FOR HQDA IS MAJ DILLARD AT DSN 227-2403 (DILLANI@HQDA.ARMY.MIL) OR COL. BRADY AT DSN 227-7054 (EMAIL

UNCLASSIFIED